

In Re:
Diana Mena

Case No.: 18-20482
Chapter: 13
Judge: SLM

NOTICE OF PROPOSED PRIVATE SALE

Diana Mena, debtor, in this case proposes to sell property of the estate to the persons and on the terms described below. If you object to the sale, you must file a written objection with the Clerk of the United States Bankruptcy Court and serve it on the party listed below not later than 7 days before the hearing date.

Address of the Clerk: 50 Walnut St
Newark, NJ 07102

If an objection is filed, a hearing will be held before the Honorable Meisel on September 12, 2018 at 10:30 a.m. at the United States Bankruptcy Court, courtroom no. 3A, . (Hearing date must be at least 28 days from the date of this notice). If no objection to the sale is filed, the clerk will enter a Certification of No Objection and the sale will be held as proposed.

Description of property to be sold: 820 Palisade Ave
Union City, NJ 07087

Proposed Purchaser: Michael J. Sanicola

Sale price: \$375,000.00

☒ Pursuant to D.N.J. LBR 6004-5, I request to pay the real estate broker and/or real estate attorney at closing on the terms set forth below.

Name of Professional: Marcy Reiz & Monis Young (realtors)

Amount to be paid: \$22,500.00

Services rendered: Realtors to facilitate closing

Higher and better offers will be received. They must be in writing and filed with the clerk not later than 7 days before the hearing date set forth above.

Objections must be served on, and requests for additional information directed to:

Name: Law Office of Benjamin J. Ginter, LLC

Address: 34 Forest Ave, Cranford, NJ 07016

Telephone No.: 908-272-6565

Benjamin J. Ginter, Attorney at Law
34 Forest Avenue
Cranford, NJ 07016
Tel: 908-272-6565
Fax: 484-214-0310
Attorney for Debtor

IN RE: | UNITED STATES BANKRUPTCY COURT
| DISTRICT OF NEW JERSEY
DIANA MENA | CHAPTER 13
| CASE NO.: 18-20482/SLM
|
DEBTOR. | Hearing Date: September 12, 2018
| Time: 10:30 AM
|
|
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**NOTICE OF MOTION FOR AUTHORIZING TO SELL PROPERTY FREE AND CLEAR
OF LIENS; APPOINTING PROFESSIONALS; AND FOR ALLOWANCE OF
BROKER'S COMMISSION AND COUNSEL FEES**

To:

Marie-Ann Greenberg
Chapter 13 Standing Trustee
30 Two Bridges Road
Suite 330
Fairfield, NJ 07004

Citi Mortgage
Po Box 9438
Gaithersburg, MD 20898

Phelan Hallinan & Schmieg
400 Fellowship Road, Suite 100
Mt Laurel, NJ 08054

Denise E. Carlon
KML Law Group PC
Sentry Office Plaza
216 Haddon Avenue
Suite 206
Westmont, NJ 08108

Kevin Gordon McDonald

KML Law Group, P.C.
701 Market Street
Ste 5000
Philadelphia, PA 19106

Jefferson Capital Systems LLC
Po Box 7999
Saint Cloud Mn 56302-9617

Midland Funding LLC
PO Box 2011
Warren, MI 4809

LVNV Funding LLC C/O Resurgent Capital Services
P.O. Box 10675
Greenville, SC 29603-0675

eCAST Settlement Corporation
PO Box 29262
New York NY 10087-9262

Bayview Loan Servicing, LLC
4425 Ponce de Leon Blvd., 5th Floor
Coral Gables, FL 33146

Portfolio Recovery Associates, LLC
C/O Capital One Bank (usa), N.a.
POB 41067
Norfolk VA 23541

CarePoint Health - Physican GSHA
C O WEINSTEIN & RILEY, PS
2001 WESTERN AVENUE, STE 400
SEATTLE, WA 98121

PLEASE TAKE NOTICE that on September 12, 2018 at 10:30 AM or as soon thereafter as counsel may be heard, the undersigned, Benjamin J. Ginter, Attorney for the Debtor, will move before the United States Bankruptcy Court, district of New Jersey, 50 Walnut St, Newark, NJ 07102 for an order AUTHORIZING TO SELL PROPERTY FREE AND CLEAR OF LIENS; APPOINTING PROFESSIONALS; AND FOR ALLOWANCE OF BROKER'S COMMISSION AND COUNSEL FEES

PLEASE TAKE FURTHER NOTICE that the undersigned shall rely upon the annexed application in support of the relief being sought, together with such oral argument as the Court deems necessary.

PLEASE TAKE FURTHER NOTICE, that the relief requested herein does not involve complex legal issues; accordingly, no brief or memorandum of law is being submitted in support of the within Motion.

PLEASE TAKE FURTHER NOTICE, that unless responsive papers are timely filed in accordance with local rules and served upon Debtors attorney, this Motion shall be deemed uncontested.

PLEASE TAKE FURTHER NOTICE, that pursuant to D.N.J. LBR 9013-1(a), a proposed form of Order is submitted herewith.

Dated: August 13, 2018

/s/ Benjamin J. Ginter
Benjamin J. Ginter, Esq.
Attorney for the Debtor

Benjamin J. Ginter, Attorney at Law
34 Forest Avenue
Cranford, NJ 07016
Tel: 908-272-6565
Fax: 484-214-0310
Attorney for Debtor

IN RE: | UNITED STATES BANKRUPTCY COURT
| DISTRICT OF NEW JERSEY
DIANA MENA | CHAPTER 13
| CASE NO.: 18-20482/SLM
|
DEBTOR. | Hearing Date: September 12, 2018
| Time: 10:30 AM
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|
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**CERTIFICATION IN SUPPORT OF MOTION FOR AUTHORIZATION TO
SELL REAL PROPERTY FREE AND CLEAR OF JUDGMENT LIENS; FOR
ALLOWANCE OF BROKER'S COMMISSION AND ATTORNEY FEES; AND TO
APPOINT PROFESSIONALS**

Benjamin J. Ginter, certifies as follows:

1. I am the attorney representing the debtor, Diana Mena, in a Chapter 13 bankruptcy which was filed on May 24, 2018. I make this certification in support of the Debtors' Motion for Authorization to Sell a certain piece of Real Property Free and Clear of Judgment Liens, pursuant to 11 U.S.C. Sec. 363 (b) and (f); for Allowance of the Broker's Commission and Attorney's Fees Pursuant to 11 U.S.C. Sec 328(a) and 503(b)(1),
2. The property is currently Debtors' primary residence. The Debtor proposes to sell through a short sale, this

property to Michael J. Sanicola for \$375,000.00. Annexed hereto as **Exhibit A** is a true copy of the Contract of Sale.

3. The Debtor anticipates closing soon after this Court consents to this short sale. Citi Mortgage, who holds the first mortgage lien, advised that in order to grant final the short sale approval, this Court needed to first approve such short sale. The second mortgage holder, Bayview Loan has agreed to this short sale. Annexed hereto as **Exhibit B**.

4. The Debtor currently has a first mortgage on this property in the amount of approximately \$722,905.00 owed to Citi Mortgage. There is a second mortgage owed to Bayview Loan Servicing for \$46,873.00. The appraised value of this property is \$330,000.00. Annexed hereto as **Exhibit C**. This would equate to negative equity in the amount of \$439,788.00. Debtor would be unable to conduct a regular sale of this property as the mortgage liens would not be paid in full and thus clear title could not be transferred. The only option would be to sell this property via short sale and have the mortgage holders agree to accept less than what was owed to them.

5. The Debtors Chapter 13 Plan had proposed a potential loan modification. However, given the amount owed to both

lenders and the Debtor's financial position, Debtor believes she is unable to afford this property. Since there is no equity in the property, Debtor believes a short sale is the best solution as the mortgage holders will at least net some proceeds instead of having to go through the lengthy and costly process of foreclosing on the property. Additionally, Debtor's Plan proposed a 100% repayment to her unsecured creditors which would be funded by Debtor's disposable income. The mortgage lenders were not to be paid as part of the payment plan. The debts owed to the mortgage lenders were predicated on the Debtor obtaining a loan modification. However, since that is not an option, the unsecured creditors shall remain in the sale position as when the Chapter 13 Plan was filed and the debt owed to the secured creditors shall be resolved via short sale.

6. The Debtor also requests allowance of the real estate brokers' commission and of Debtor's attorney's fees under 11 U.S.C. Sec 328(a) and 503(b), which is customary under a such a transaction.
7. Debtor seeks to have Marcy Reiz & Monis Young as Brokers in connection with the sale of the property. The brokers seek a total commission from the sale of \$22,500.00. At

this time, Debtor does not have an attorney to represent her in this real estate transaction.

WHEREFORE, we respectfully request that this Court enter into an Order Appointment Special Counsel, Appointing the listed Brokers, Authorizing the Sale of the Property Free and Clear of Judgment Liens and Allow the Broker's Commission.

We hereby certify the foregoing statements made by me are true; I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: August 13, 2018

/S/BENJAMIN J. GINTER, ESQ.
BENJAMIN J. GINTER, ESQ.